



Washington State
Department of Health
Board of Osteopathic Medicine and Surgery
Meeting Minutes
May 9, 2008

The meeting of the Washington State Board of Osteopathic Medicine and Surgery was called to order by William Gant, Vice-Chair, at 9:10 a.m. The meeting was held at: St. Francis Hospital, 34515 9th Avenue South, Federal Way, Washington 98003.

Board Members Present: William Gant, Public Member, Vice Chair
Thomas Shelton, DO
Peter Kilburn, DO
Roger Ludwig, DO
Catherine Hunter, DO
Larry Smith, DO

Staff Present: Blake Maresh, Executive Secretary
Arlene Robertson, Program Manager
Erin Obenland, Disciplinary Program Manager
Joe Mihelich, Administrative Staff
Melissa Burke-Cain, Assistant Attorney General
Judy Young, Staff Attorney

Guests Present: Trent Kelly, Staff Attorney
Jennifer Sabel, Injury and Violence Prevention Epidemiologist

Open Session

1. Call to Order
 - 1.1 Approval of Agenda

The agenda was approved with modifications to 3.3.1 to reflect the MQAC office-based surgery rules draft was an unofficial draft. Item 4.1.2 was scheduled for 9:30 to accommodate guest presenter, Trent Kelly, Staff Attorney.

1.2 Approval of Minutes - March 14, 2008 meeting

The minutes of the March 14, 2008 meeting were approved.

1.3 Approval of Minutes - March 26, 2008 conference call minutes

The conference call minutes for March 26, 2008 were approved.

1.4 Approval of Minutes - April 16, 2008 conference call minutes

The conference call minutes for April 16, 2008 were approved.

2. Scope of Practice Issues

2.1 Extra Corporeal Membrane Oxygenation - Request for review and comment to Respiratory Care Practitioners Program

2.1.1 RCW 18.89.040 Scope of Practice - Respiratory Care Practitioner Statute

2.1.2 American Association for Respiratory Care - Position Statement/Oregon Respiratory Therapist Licensing Boards Position Statement

ISSUE

The Board received a request from the Respiratory Care Practitioner Program for input into the operation, including the administration of pharmacologic agents, by a respiratory care practitioner of an Extra Corporeal Membrane Oxygenation (ECMO) machine, a heart/lung machine primarily used in neonatal and pediatric care.

ACTION

The Board indicated that the Respiratory Therapist may administer medications that are needed to operate the machine, i.e., heparin and nebulized morphine for increased oxygenation. However, it is not appropriate for the Respiratory Therapist to achieve a state of sedation through the use of ECMO.

Pharmacological agents, airway, venous, and topical must be prescribed and administration supervised by a

physician. The medications should not be administered by the Respiratory Therapist.

Respiratory Therapists may monitor the ventilator after medications have been administered. They do not have the pharmacological training to administer medications that are not directly related to operation of the machine.

Staff will notify Tracy Hansen, Respiratory Care Practitioner Program Manager, of the Board's response.

- 2.2. Infection Control and Prevention - Review current statement on HIV/HBV transmission to determine if an update should be done to include new infectious agents
 - 2.2.1 Philosophy Statement Related to the Prevention of HIV/HBV Transmission - PO95-07
 - 2.2.2 Standard Precautions

ISSUE

After considering updated information about transmission new strains of infections, the Podiatric Medical Board recently modified its HIV/HBV guidelines to reference "infection control" so new infectious diseases and new treatments will be included in the guidelines.

The Podiatry Board requested staff notify the Medical Quality Assurance Commission and Board of Osteopathic Medicine and Surgery of the change made to the HIV & Hepatitis Infection Control policy which they may also want to update.

ACTION

The Board reviewed its 1993 policy and the Centers for Disease Control and Prevention (CDC) Standard Precautions. The Board's policy is very limited in scope and does not include many of the infectious diseases encountered in today's medical practices.

The Board approved renaming the policy "Infection Control". The policy will refer all osteopathic physicians and physician assistants to the Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), Infection Control

Guidelines. This change will encourage consistency for treating infectious diseases among all health care providers.

The CDC has conducted research and developed a collection of guidelines which pertain to keeping patients and healthcare workers in health care settings protected from infectious diseases. The Infection Control Guidelines are a common resource for healthcare providers throughout the country.

3. Rules

3.1 Mandatory Reporting Rules - Update status of current and future rules

Ms. Robertson advised that the mandatory reporting rules were filed in March. However, due to additional requirements in 4SHB 1103, the rules will need to be revised. The Department will be filing a CR 101 to begin the rules process.

3.2 Non-Surgical Cosmetic Procedures

3.2.1 Draft - Non-Surgical Medical Cosmetic Procedures Rule (osteopathic physician)

3.2.2 Draft - Non-Surgical Medical Cosmetic Procedures Rule (osteopathic physician assistant)

ISSUE

Draft language proposed by the Medical Quality Assurance Commission (MQAC) for performing non-surgical medical cosmetic procedures was reviewed. The Board is monitoring the MQAC rules so the final rules for the two professions will have similar criteria.

ACTION

The proposed language was approved to move forward for the CR102 filing.

3.3 Office-based Surgery - Administration of Sedation and Anesthesia, including necessary training and equipment requirements.

3.3.1 MQAC draft

3.3.2 Generic draft re: use of sedation in office based surgery

3.3.3 Federation of State Medical Board Guidelines

3.3.3.1 Federation of State Medical Board Elements

ISSUE

The Board is given the authority to develop rules for using sedation in office based surgeries in ESHB 1414 (2007 Legislation). Facilities and Services Licensing (FSL) will be developing rules to regulate office based surgeries using anesthesia.

ACTION

The most recent draft language and national guidelines were reviewed. The Board was unable to proceed since proposed rules for Ambulatory Surgical Facilities have not been received from FSL. It is anticipated a draft will be available by the July 25th meeting.

4. Disciplinary Issues

4.1 Summary of Sections that pertain to Boards and Implementation of Fourth SHB 1103 (1103)

4.1.1 Establish daily monetary fine

ISSUE

Implementation of 1103 requires the Board to set a fine for failure to produce documents, records or other items requested during investigations or audits. The fine can be up to \$100 per day but may not exceed \$5000 per investigation.

ACTION

The Board approved a maximum fine of \$100 per day for failure to cooperate during an investigation.

4.1.2 Disciplinary Sanctions - Appoint a representative to review and collaborate on developing a schedule with other boards/commissions

4.1.2.1 Sanction Guidelines

4.1.2.2 Tracking Sanctions/Usage

ISSUE

Trent Kelly, Staff Attorney, provided an explanation of 1103 which requires adoption of sanctioning guidelines. All boards and commissions identified in RCW 18.130.040(2)(b) shall appoint a representative to review the secretary's sanction guidelines and other guidelines adopted by any of the boards and commissions and collaborate to develop a schedule that defines appropriate ranges of sanctions. The sanctions must

apply to all disciplining authorities. Mr. Kelly indicated recommendations must be back to the Secretary by November 15. The Secretary is required to have rules in place by January 1, 2009.

ACTION

Dr. Hunter volunteered to participate in the workgroups.

5. Program Manager Reports

5.1 Budget Report - April 2008

Ms. Robertson reported that budget expenditures are keeping within allotments. Although Direct Charges has a deficit balance, that is due to encumbrances. Service Unit expenditures are about one-half of allotment.

5.2 Fee Setting Model - 07-09 Biennium

The fee setting model was reviewed. Staff indicated the fee study was actually projected over three biennium to take into account for inflation. The Department anticipates this fee increase will provide enough revenue to cover costs over the next six years.

5.3 Washington Physicians Health Program - March Statistical Information

The March statistical report from WPHP was provided.

5.4 Operating Agreement between the Department of Health and the Board of Osteopathic Medicine and Surgery

ISSUE

It has been several years since the operating agreement was written. There have been Legislative changes and the Department reorganization which will impact operations. Some sections of the Operating Agreement are no longer applicable.

ACTION

The Board determined to not renew the Operating Agreement at this time. Staff will review the Operating Agreement and note the sections that are outdated. The Board will review the Operating Agreement at a future meeting, make suggested

revisions, and return it to the Secretary for her consideration of any changes.

5.5 Delegation of Signature Authority

ISSUE

A change in the Delegation of Signature Authority is necessitated by a change in Section 5 staff due to the Medical pilot project and the upcoming reorganization.

ACTION

The Delegation was approved with the immediate changes to Section 5 staff. It is anticipated once organizational changes have occurred and other staff is identified, the Delegation authority will be revisited.

5.6 Participation on Unintentional Poisoning Prevention Work Group

ISSUE

Jennifer Sabel, Injury and Violence Prevention Epidemiologist, gave a presentation on a recent study of deaths which have occurred from medication overdoses. A significant increase in these types of deaths have occurred in the past four to five years. Ms. Sabel is leading a workgroup of health care professionals to look at ways to prevent these types of deaths. She is asking for a representative from the Board to participate in the workgroup.

ACTION

Dr. Smith expressed an interest in being on the workgroup. Since he has been the Board's primary reviewer for over prescribing cases, he has an understanding of this problem. Ms. Sabel will send him information on the meeting dates.

6. Executive Director Reports

6.1 Department/Division Updates

Mr. Maresh provided updates on the adoption of the mandatory reporting rules, unintentional opioid deaths workshop, fee increases, B/C/C Survey, the upcoming B/C Leadership Forum in May, the AIM/FSMB annual meeting, and HSQA reorganization to be phased in between May 1 and July 1.

Mr. Maresh provided a study on the value of fines and reimbursements after accounting for inflation. The current value of fines and reimbursements are equivalent to 64% of the amount collected in 1993. Mr. Maresh will use the table to support the Board's request that the Department ask the Legislature to increase the amount that can be assessed for fines and reimbursements.

Information about the Washington Pain Forum being held June 6, 2008 was shared with the Board. None of the regulatory boards or commissions for the practitioners that can prescribe pain medication, including narcotics, were included on the invitation list. If someone from the Board is interested in attending, the Department would contact the organizing parties to see if it would be possible to attend. Unfortunately, no one from the Board was available to attend on that day.

Mr. Maresh also shared a letter from Physicians Insurance which raises concerns about some sections of the sanction guidelines recently adopted by the Medical Quality Assurance Commission. Physicians Insurance believes a too onerous sanctioning schedule will discourage settlement of debatable malpractice cases, will deter physicians from practicing in Washington, and will deny patients the services of many outstanding physicians whose license will be suspended for an isolated incident. They feel the minimum sanctions, particularly related to malpractice settlements and standard of care cases, would be too harsh and not really protect the public.

7. Legislation Topics/Issues

Mr. Maresh outlined activities for implementing 4SHB 1103 and the impact on Board operations. Major changes include: the summary suspension process; delegation of final decision-making to a presiding officer will be prohibited in standard of care or cases that require clinical expertise; sexual misconduct discipline that does not involve standard of care or clinical expertise will be under the Secretary's authority; criminal background checks will include national data bank searches; and use of a sanctioning schedule is mandated and must be adopted into

rules. The Legislation also created five year pilot projects for Medical, Nursing, Dental and Chiropractic to operate their programs semi-autonomously but still within the Department administration.

8. (Open Session) Settlement Presentations
(Presentations are contingent upon agreements being reached between the parties prior to a board meeting.)
Deliberations are held in Executive Session.

There were no Agreed Orders for presentation.

Closed Session

9. Statement of Allegations/Stipulation to Informal Disposition presentations (*Presentations are contingent upon agreements being reached between the parties prior to a board meeting.*)
Deliberations are held in Executive Session.
9.1 Stipulation to Informal Disposition - Docket No. 08-01-A-10200P - Presented by Judy Young, Staff Attorney

Judy Young, Staff Attorney, presented the Stipulation to Informal Disposition.

The Board's decision was made in Executive Session. The respondent will be notified by mail.

10. Report Reviews/Investigative Authorizations

Eight reports were reviewed. Six were authorized for investigation. The following were closed below threshold:
2008-126314
2008-126369

11. Disciplinary Case Reviews - Reviewing Board Member Reports
CASE NUMBER CASE DISPOSITION

2006-04-0002OP/ 2006-7569	Closed no cause for action; risk minimal and not likely to reoccur
2006-04-0003OA/ 2006-7622	Closed no cause for action; risk minimal and not likely to reoccur
2007-05-0005OP/ 2007-7757	Closed no cause for action; no violation determined
2007-10-0009OP/ 2007-7763	Closed no cause for action; care rendered was within the standard of care

2007-12-0007OP/ 2007-7752	Closed no cause for action; care rendered was within the standard of care
2008-01-0001OP/ 2007-7733	Closed no cause for action; unable to pursue without a whistleblower release
2008-01-0003OP/ 2008-7665	Closed no cause for action; risk minimal and not likely to reoccur
2008-02-0003OP/ 2008-7720	Closed no cause for action; insufficient evidence

12. Open case report

A list of current open cases was provided.

13. Compliance Issues

There were no compliance issues.

14. Application Review

There were no applications for review.

The meeting adjourned at 2:30 p.m.

Respectfully Submitted

Arlene A. Robertson
Program Manager

NOTE: PLEASE VISIT THE WEB SITE FOR FUTURE AGENDAS AND MINUTES - WWW.DOH.WA.GOV . GO TO LICENSING AND CERTIFICATION AND YOU WILL FIND A LIST OF THE HEALTH CARE PROFESSIONS, GO TO OSTEOPATHIC PHYSICIANS FOR AGENDAS AND MINUTES.
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